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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/526,081

02/28/2005

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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BRIARCLIFF MANOR, NY 10510

EXAMINER

SUN, XIUQIN

ART UNIT

PAPER NUMBER

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/526,081	Applicant(s) LAZEROMS ET AL.	
	Examiner Xiuqin Sun	Art Unit 2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 10-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 15 and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Newly submitted claims 10-14 are directed to inventions or embodiments that are independent or distinct from the invention originally claimed for the following reasons:

The proposed claims 10-14 requiring "a weighing device adapted to detect a distribution of pressures exerted by at least one foot of the person on a surface" raises a new issue which would require further search and consideration.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 10-14 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Objection***

2. Claim 15 is objected to since it is a duplicate of claim 8 and should be canceled.

Applicant is advised that should claim 8 be found allowable, claim 15 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k) See 706.03(k).

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1-3, 5, 6, 8 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Speeter (U.S. Pat. No. 5479528).

Regarding claims 1, 8 and 15, Speeter discloses a system and method for identifying a person (Abstract), comprising: detecting a distribution of pressures, exerted by at least one foot of the person on a surface (Abstract; col. 3, lines 1-3; col. 9, lines 24-29); storing data of a number of persons, said data comprising a detected pressure distribution pattern and an associated person identification code (Abstract; col. 9, lines 29-32); and comparing a detected pressure distribution pattern with stored pressure distribution patterns until a match of pressure distribution patterns is found (Abstract; cols. 2-3, lines 65-3; col. 9, lines 24-32).

Regarding claim 2, Speeter discloses: the pressure distribution detecting means comprise a matrix sensor (cols. 2-3, lines 65-3; col. 9, lines 24-32).

Regarding claim 3, Speeter discloses: said surface comprises a platform for receiving at least one foot of the person, the pressure distribution detecting means comprising a layer implemented in the platform (col. 4, lines 20-26).

Regarding claims 5 and 6, Speeter discloses: storing detected pressure distribution patterns comprise a processor having a storage medium; the processor further comprises a comparator for comparing a detected pressure distribution pattern with the stored pressure distribution patterns (Figs. 7 and 8; col. 7, lines 3-10; col. 8, lines 31-40).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4, 7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Speeter in view of Wymore (U.S. Pat. No. 6515586).

Regarding claim 4, Speeter discloses the system and method including the subject matter discussed above except: the pressure distribution detecting means and step comprise a matrix of electrical contacts, with a rubber having a pressure-dependent conductivity being placed between these contacts.

Wymore teach a sensory system and method detecting pressure distribution over a surface (col. 2, lines 50-67; col. 9, lines 37-67), including: a matrix of electrical contacts, with a rubber having a pressure-dependent conductivity being placed between these contacts (col. 2, lines 50-67; col. 5, lines 46-59; col. 9, lines 37-67).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the teaching of Wymore in the invention of Speeter in order to provide a flexible, adjustable in size, accurate and robust sensor surface for detecting footprint of a user (Wymore, col. 2, lines 5-9; col. 10, lines 1-21).

Regarding claims 7 and 9, Speeter discloses the system and method including the subject matter discussed above except: said system and method comprises a system and method for identifying a user of a weighing device.

The disclosure of Wymore teaches: said system and method identifying a user of a weighing device (col. 2, lines 50-54).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the teaching of Wymore in the invention of Speeter in order to provide a system and method of detecting pressure distribution that can be adapted for detecting a user of a weighing device (Wymore, col. 2, lines 5-9; col. 9, lines 37-67; col. 10, lines 1-21).

7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Speeter.

Regarding claim 16, Speeter discloses the system and method of identifying a person including the subject matter discussed above except: the method further comprises identifying a user of a weighing device.

Speeter teaches reconfiguring the system and applying the method to implement different devices of intelligent work surfaces (col. 1, lines 67).

In view of the teaching of Speeter, it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the method of

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Speeter to a user of a weighing device as an intended use of the invention. It has been held that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Response to Arguments***

9. Applicant's arguments regarding the rejections under 35 USC § 101 filed 06/15/07 are persuasive. The rejections are therefore withdrawn.

10. Applicant's arguments regarding the prior art rejections of claims 1-9 have been fully considered but they are not persuasive.

Applicants argue that "[t]here is no description of the detecting *pressure distributions* and comparing these *pressure distributions* with stored *pressure distributions*" because the reference to Speeter discloses only "piezoresistive and capacitive tactile (touch) arrays" and "[t]hese relate to force calculations on intelligent work surfaces". The arguments are not persuasive. Giving the claims their broadest reasonable interpretation, the Examiner holds the position that all the subject matters recited in claims 1-9 have been taught or suggested or disclosed by the cited prior art references, either individually or in combination (see sections 4 and 6 set forth above in this Office Action for more details). In particular, it is deemed that the "force-image of an individual's handprint or footprint" taught by Speeter is equivalent to the "distribution of pressure, exerted by at least one foot of the person on a surface" as recited in claims 1-9 of the instant application, considering that the "pressure" is simply the force per unit area exerted against a surface by the weight of an object above that surface. The rejections are therefore maintained.

11. New claims 10-14 are withdrawn from further consideration by the Examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention. New claim 15 is objected. New claim 16 is rejected based on new grounds.





**Contact Information**

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Xiuqin Sun whose telephone number is (571)272-2280. The examiner can normally be reached on 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571)272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

XS   
July 20, 2007

  
JOHN E. BARLOW, JR.  
PRIMARY EXAMINER  
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